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# *The Commonwealth of Massachusetts*

## *Department of Public Safety*

*Board of Building Regulations and Standards*

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Thomas G. Gatzunis, P.E.  
Commissioner

Gary Moccia, P.E.  
Chairman

Alexander MacLeod, R.A.  
Vice Chairman

Robert Anderson  
Administrator

Date: June 20, 2008

Name of Appellant: Michael Ullmann

Service Address: 14 Anderson Street  
Marblehead, MA 01945

In reference to: 14 Anderson Street  
Marblehead, MA

Docket Number: 05-446

Property Address: 14 Anderson Street  
Marblehead, MA 01945

Date of Hearing: 07-24-07

We are pleased to enclose a copy of the decision on the request for a variance from the Building Code.

Sincerely:

**BUILDING CODE APPEALS BOARD**

*Patricia Barry*  
Patricia Barry, Clerk

cc: Building Code Appeals Board  
Building Official

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board  
Docket No. 05-446

Michael Ullmann,	)
Appellant	)
	)
v.	)
	)
Town of Marblehead,	)
Appellee	)
	)

BOARD'S RULING ON APPEAL

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on Appellant's appeal filed pursuant to 780 CMR §122.1. In accordance with 780 CMR §122.3, Appellant asks the Board to grant a variance from 780 CMR 3603.6 of the Massachusetts State Building Code ("Code").

By letter dated May 30, 2007, William R. Doane, Local Inspector for the Town of Marblehead ("Appellee"), informed Appellant that a mechanical exhaust fan must be installed in Appellant's toilet room to comply with 780 CMR 3603.6.2.

In accordance with G. L. c. 30A, §§10 and 11; G. L. c. 143, §100; 801 CMR §1.02 et. seq.; and 780 CMR §122.3.4, the Board convened a public hearing on July 24, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Appellant was present at the hearing.

Reasons for Variance

The issue is whether Appellant should be allowed a variance from 780 CMR 3603.6.2 for his half bathroom when it has a window for natural ventilation. Section 3603.6.2 requires:

Every room or space intended for human occupancy shall be provided with natural or mechanical ventilation.

**Exception:** Every bathroom and toilet room shall be equipped with a mechanical exhaust fan and associated ductwork with the fan exhausting, as a minimum, at 50

cfm if operated intermittently or 20 cfm if continuously operated. Such bathroom exhaust shall vent directly to the outside and no exhaust vent termination to attics or other interior portions of the building are allowed. 780 CMR 3603.6.2

Appellant installed a half bath in the existing space of his house. The half bath included a window that opened to the exterior, a sink and a toilet (no shower or tub).

Appellee did not object to granting a variance from 780 CMR 3603.6.2. The Board acknowledged that the fourth and fifth editions of the Code allowed either an exterior window or an exhaust fan in these circumstances, while the sixth edition required an exhaust fan. But the seventh edition has returned allowing either type of ventilation.

### Decision

The Chair entertained a motion to grant the variance from 780 CMR 3603.6.2, based on the facts that: Appellee did not object; the 7<sup>th</sup> Edition of the State Building Code would allow either the installation of an exhaust fan or a window ("Motion"). Following testimony, and based upon relevant information provided, Board members voted to allow the Motion, as described on the record. The Board voted as indicated below.

☒..... Granted

☐..... Denied

☐..... Rendered Interpretation ☐

\_\_\_\_\_.....Granted with conditions

☐..... Dismissed

The vote was:

☒.....Unanimous

.....☐ Majority



Keith Hoyle



Harry Smith – Chair

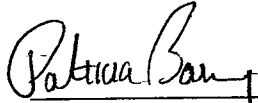


Alexander MacLeod

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: June 20, 2008

  
\_\_\_\_\_  
Patricia Barry, Clerk

All hearings are audio recorded. The digital recording (which is on file at the office of the Board of Building Regulations and Standards) serves as the official record of the hearing. Copies of the recording are available from the Board for a fee of \$10.00 per copy. Please make requests for copies in writing and attach a check made payable to the Commonwealth of Massachusetts for the appropriate fee. Requests may be addressed to:

Patricia Barry, Coordinator  
State Building Code Appeals Board  
BBRS/Department of Public Safety  
One Ashburton Place – Room 1301  
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